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Amendments To The Drawings:

Attached herewith is a replacement sheet for Fig. 5 in which Fig. 5 has been renumbered as Fig. 5A. Two new drawing sheets are also attached herewith in which new Figs. 5B and 5C are presented. Applicant submits herewith new Figs. 5B and 5C. Fig. 5 as originally filed has been renumbered as Fig. 5A. Support for Fig. 5B is found in the specification on page 18, lines 1-7. Support for Fig. 5C is found in Fig. 5 as originally filed as well as in the specification on page 17, lines 7-21. Figure 5 as originally filed illustrates an unexpanded stent with various amounts of strut length cut off by representing the cut off lengths as shaded. As discussed in the specification at page 17, lines 7-21, such a stent will have a gradual taper from proximal end (12) to distal end (14) when the stent is in an expanded form. New Fig. 5C is merely an illustration of the gradual taper of the stent in Fig. 5 as originally filed when it is in an expanded form. The specification on page 18, lines 1-7 also discussed other means by which a stent could be tapered when in an expanded form and stated that changing the stiffness of the connecting struts by altering the length of the connecting struts would provide a tapered expanded stent. New Fig. 5B is merely an illustration of an unexpanded stent that has a tapered expanded form due to a change in the length of the connecting struts as discussed in the specification. The illustration of the tapered expanded form of the stent in new Fig. 5B, discussed in the specification as filed, is found in new Fig. 5C.

No new matter has been added by the amendments. The specification has previously been suitably amended to reference new Fig. 5B, 5C and relabeled Fig. 5A. Withdrawal of the objection is respectfully requested.

Attachment: Replacement Sheet Annotated Sheet Showing Changes

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Remarks

This Amendment is in response to the Office Action dated June 22, 2006. The Office Action: 1) objected to claim 35 for improperly amending the claim language, 2) objected to the Specification under 37 C.F.R. § 1.75(d)(1) and MPEP § 608.01(o), 3) objected to references to FIGs. 5A, 5B, and 5C in the specification and, 4) rejected claims 34, 35, 37, 42-45, 47, and 48 under 35 U.S.C. § 102(e) by US 5,609,627 (hereinafter Goicoechea), and 5) rejected claims 34, 35, 37, 47, and 48 under 35 U.S.C. § 103(a) by Goicoechea. The following comments are presented in the same order as in the Office Action with section numbers corresponding to the above enumeration.

1) Improper Amendment to claim 35

Claim 35 was objected to for changing the word strut to stent without crossing out the word strut and without underlining the word stent. Examiner correctly treated this change as a typographic error and not as a bona fide amendment. The change in wording was inadvertent and the instant claims have been appropriately corrected.

2) Specification Objection Improper Amendment to claim 35

The Office action stated there was no support for a “tapered flow path” in the specification. In the prior amendment Applicant paraphrased portions of the specification which provided such support. However, because the Office Action stated it could not find the paraphrased statements in the specification, Applicant is providing a more detailed recitation of the relevant portions of the specification with citations to avoid any further confusion. The following is the recitation:

Body vessels carry blood throughout the body. (Knowledge commonly known to people of ordinary skill in the art and cited in the art incorporated by reference in the Specification). “Stents maintain the diameter of the stented vessel segment slightly larger than the native unobstructed vessel segments proximal and distal to the stented segment”. Specification, Page 2 lines 10-12. “A taper can also be programmed into the” ... “stent”. Id., Page 17 lines 4-5. “There is a need for a” ... “taper” ... “to match the natural taper of the target vessel”. Id., Page 4 lines 6-8.

The previous recitation shows that when the specification states that a stent has a slightly larger diameter than a body vessel it is disclosing that fluid flows through the stent, i.e.

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that it has a flow path. When the specification describes the stent matching the natural taper of the target vessel it is disclosing that the flow path should be tapered. To clearly illustrate this point please note that if the stent in FIG. 8B were to have its struts or connectors progressively shortened as described in Specification, page 15 lines 4-17, the result would be a stent which tapers both on the outer surface of the stent as well as along the luminal walls within the stent. This is a stent with a tapered flow path.

3) Objection to references to FIG.s 5A, 5B, and 5C

The Office Action objected to references to FIGs. 5A, 5B, and 5C. In the prior amendment applicant inadvertently omitted the replacement sheets including those drawings. Applicant submits herewith new Figs. 5B and 5C. Fig. 5 as originally filed has been renumbered as Fig. 5A. Support for Fig. 5B is found in the specification on page 18, lines 1-7. Support for Fig. 5C is found in Fig. 5 as originally filed as well as in the specification on page 17, lines 7-21. Figure 5 as originally filed illustrates an unexpanded stent with various amounts of strut length cut off by representing the cut off lengths as shaded. As discussed in the specification at page 17, lines 7-21, such a stent will have a gradual taper from proximal end (12) to distal end (14) when the stent is in an expanded form. New Fig. 5C is merely an illustration of the gradual taper of the stent in Fig. 5 as originally filed when it is in an expanded form. The specification on page 18, lines 1-7 also discussed other means by which a stent could be tapered when in an expanded form and stated that changing the stiffness of the connecting struts by altering the length of the connecting struts would provide a tapered expanded stent. New Fig. 5B is merely an illustration of an unexpanded stent that has a tapered expanded form due to a change in the length of the connecting struts as discussed in the specification. The illustration of the tapered expanded form of the stent in new Fig. 5B, discussed in the specification as filed, is found in new Fig. 5C.

No new matter has been added by the amendments. The specification has been suitably amended to reference new Fig. 5B, 5C and relabeled Fig. 5A. Withdrawal of the objection is respectfully requested.

4) Rejection of claims 34, 35, 37, 42-45, 47, and 48 under 35 U.S.C. § 102(e)

The Office Action rejected claims 34, 35, 37, 42-45, 47, and 48 under 35 U.S.C. §102(e) by Goicoechea. The instant claims recite a limitation of the annular element having the greatest tapered diameter having no more struts than the annular element having the narrowest

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tapered diameter. Because nowhere in Goicoechea is there any disclosure of this limitation, the 35 U.S.C. §102(e) rejection is improper. As such, Applicant respectfully requests withdrawal of the rejection.

5) Rejection of claims 34, 35, 37, 47, and 48 under 35 U.S.C. § 103(a)

The Office Action rejected claims 34, 35, 37, 47, and 48 under 35 U.S.C. § 103(a) under Goicoechea in view of knowledge commonly known in the art. While a suggestion or motivation to combine two references may come from the general knowledge of those of ordinary skill in the art, there must be actual evidence of such a suggestion or motivation and the showing must be clear and particular. In re Dembiczak, 175 F.3d 994, 999, 50 USPQ2d 1614, 1617 (Fed. Cir. 1999) abrogated on other grounds, in In re Gartside, 203 F.3d 1305, 53 USPQ2d 1769 (Fed. Cir. 2000); see also, Smith Indus. Med. Sys. v. Vital Signs, Inc., 183 F.3d 1347, 1356, 51 USPQ2d 1415, 1421 (Fed. Cir. 1999) ("That knowledge may have been within the province of the ordinary artisan does not in and of itself make it so, absent clear and convincing evidence of such knowledge.") (emphasis in original); see In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). The conclusory statements of the Examiner fail to meet this standard. In re Dembiczak, 175 F.3d at 999, 50 USPQ2d at 1617 ("Broad conclusory statements regarding the teaching of multiple references, standing alone, are not "evidence." E.g., McElmurry v. Arkansas Power & Light Co., 995 F.2d 1576, 1578, 27 USPQ2d 1129, 1131 (Fed. Cir. 1993) ("[C]onclusory statements, however, are not sufficient to establish a genuine issue of material fact.")).

Goicoechea does not provide the slightest hint of a suggestion that it generally known to cut a frustoconical stent from a tube. Goicoechea describes winding wire components with different diameters onto a mandrel and then suturing the different wire components together to form the different portions needed in a frustoconical shape. Goicoechea, Col. 8 lines 64-66, Col. 9 lines 1-12, Col. 9 lines 52-60, and Col. 10 lines 1-17. Applicant respectfully asserts that what the Examiner has asserted is NOT commonly known and if the Examiner is indeed actually aware of such evidence that is "generally known" Applicant requests that the Examiner include such evidence in the form of a declaration or affidavit in a subsequent non-final Office Action so that Applicant is allowed the opportunity to rebut it.

Furthermore, even if such evidence were generally known, the combination

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proposed by the Examiner fails to teach or suggest all of the elements of the instant claims. As stated in section 4 of these remarks, the instant claims contain limitations not disclosed in Goicoechea. Similarly these limitations are not commonly known either. Because no combination of one, some, or all of the cited references disclose the limitations recited in the claims, the 35 U.S.C. §103(a) rejection is improper.

Conclusion

Based on the previous remarks, Applicant respectfully submits this application is in condition for allowance. Favorable consideration and prompt allowance of claims 34, 35, 37, 42-45, 47, and 48 are requested.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: September 18, 2006

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